(2) C.S. 500/—1

SINGLE BENCH

IN THE HIGH COURT OF CHHATTISGARH AT BILASPUR (C.G.)

WRIT PETITION (C) NO. 5825 /2006

PETITIOINER

1. Rameshwar, S/o. Arti Sahu, aged about 27 (at present 44) years, R/o. Village Sarhar, Tahsil – Shakti, Distt. Janjgir-Champa (C.G.)

2. Kaushalya, W/o. Gopiram, aged about 33 (at present 50) years, R/o. Village Raipura, Tahsil Shakti Distt.Janjgir-Champa (C.G.)

P.R. No. 5848/06 Party
Presented by Shri Vinay
dated 26-12-06

3. Shushila, W/o. Shyam Kumar Sahu, aged about 31 (48) years, R/o. village Dhamani, Tahsil Shakti, Distt. Janjgir-Champa (C.G.)

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4. Damodar S/o. Aarti Sahu, aged about 36 (at present 53) years, R/o. village Sarhar, Tahsil Shakti Distt. Janjgir-Champa (C.G.)

5. Bharat S/o. Parsadi Sahu, aged about 42 (at present 59) years, R/o. village Sarhar, Tahsil Shakti Distt. Janjgir-Champa (C.G.)

VERSUS

RESPONDENTS

1. Smt. Gurwari Bai, Wd/o. Late Tulshi, aged about 60 (at present 77) years, R/o. Village Sarhar, Tahsil Shakti, Distt.Janjgir-Champa (C.G.)

2. Smt. Toran Bai (D/o. Tulshi) W/o. Miluram, aged about 45 (at present 62) years, r/o. Village Sarhar, Tahsil Shakti, Distt. Janjgir-Champa (C.G.)

COMMISSIONER APARNA MALVIYA 24/10/07

3. Smt. Chanda Bai, D/o. Tulsi, agedabout 48 (at present 65) years, r/o. village Darang, Tahsil Shakti, Distt. Janjgir-Champa (C.G.)

4. State of Chhattisgarh, through – Collector, Distt. Janjgir-Champa (C.G.)

5. The Land Acquisition Officer, Distt. Janjgir-Champa (Chhattisgarh)

(3)

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA FOR ISSUANCE OF AN APPROPRIATE WRIT IN THE NATURE OF MANDAMUS / CERTIORARI ETC. OR DIRECTION / ORDER IN THE LIKE NATURE.

XI-HC-78

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..W.P...5825..... **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

आदेश का दिनांक तथा आदेश क्रमांक	हस्ताक्षर सहित आदेश	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	22.11.2006 Shri Vinay Pandey, counsel for the petitioners. Heard on admission. By way of this writ petition filed under Article 227 of the Constitution of India, the petitioners, who are the defendants, have challenged the legality, validity and propriety of the impugned order 14.9.2006 passed by the Additional District Judge, Sakti. It appears that by the impugned order, the learned trial Court has allowed the application of the plaintiffs filed under Order 6, Rule 17 of the Code of Civil Procedure for amendment, marked as annexure P-2. A perusal of the records would show that the plaintiffs had filed a suit for recovery of their part of amount of compensation by calculating their share in it. By way of this amendment, they had prayed for incorporating para No. 13-A, making allegations that if the defendants would not be able to pay their part of compensation, as has been prayed by them, the plaintiffs shall be entitled to get their shares from the landed property on account of adjustment in the part of compensation, which they are claiming under their right to partition. Learned counsel for the petitioners submits that the amendment permitted to be incorporated changes the nature of the suit. He also submits that the point of limitation would also come in the way in case, the plaintiffs are held to be entitled for a decree in the terms prayed by them. In the opinion of this Court, the trial Court has committed no error of law while allowing such an amendment because the	

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उच्च न्यायालय, छत्तीसगढ़, बिलासपुर

मामला क्रमांक ..... W.P. 5825 ..... **सन् 2006**

आदेश पत्रक (पूर्वानुबद्ध)

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amendment appears to be within the purview and scope of the suit.

So far as the grounds raised by learned counsel for the petitioners are concerned, these grounds may be taken by him by way of filing a consequential amendment in the written statement and the same can be adjudicated at the proper stage by the trial Court and on these grounds, the amendment set forth on the right of the parties, cannot be denied by the Court. There appears to be no merits in this writ petition.

The same is dismissed at the motion stage itself.

In view of the above, M.W.P.4397/2006 for grant of stay and I.A.No.10249/2006 for urgent hearing stand disposed of.

Sd/-
Sunil Kumar Sinha
Judge

[redacted]

[redacted]

sumita

24/12/06

P.T.O.